

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NAKIA ROSE,
Plaintiff,

-against-

O. GARRITT, Correction Sergeant; JOHN DOLE, Correction Sergeant; PAUL D. MILLER, Correction Officer; WARREN FREEMAN, Correction Officer; ROBERT J. COCUZZA, Correction Officer; DANIEL J. LAVELLE, Correction Officer; ZA'QUAWN GRISET, Correction Officer; W. MILLER, Registered Nurse; WILLIAM A. LEE, Superintendent; EDWARD R. BURNETT, Deputy Superintendent of Security

All being sued in their official capacities and in their individual capacities,

Defendants.
-----X

COMPLAINT Under
42 U.S.C. § 1983
CIVIL RIGHTS ACT

JURY TRIAL
REQUESTED

INDEX NO. _____

16CV3624

I. PARTIES IN THIS COMPLAINT:

A. PLAINTIFF:

NAKIA ROSE DOCCS Din. Number 09A0768
Green Haven Correctional Facility
594 Route 216, Stormville, New York 12582

B. DEFENDANTS:

1. O. GARRITT, Correctional Sgt.
Employed at Green Haven C.F.
594 Route 216, Stormville, NY 12582
2. JOHN DOE, Correctional Sgt.
Employed at Green Haven C.F.
594 Route 216, Stormville, NY 12582
3. PAUL D. MILLER, Correctional Officer
Employed at Green Haven C.F.
594 Route 216, Stormville, NY 12582
4. WARREN FREEMAN, Correctional Officer
Employed at Green Haven C.F.
594 Route 216, Stormville, NY 12582
5. ROBERT J. COCUZZA Jr., Correctional Officer
Employed at Green Haven C.F.
594 Route 216, Stormville, NY 12582

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6. DANIEL J. LAVELLE, Correctional Officer
Employed at Green Haven C.F.
594 Route 216, Stormville, NY 12582
7. ZA'QUAWN GRISET, Correctional Officer
Former Employee at Green Haven C.F.
594 Route 216, Stormville, NY 12582
8. W. MILLER, REGISTERED NURSE
Employed at Green Haven C.F.
594 Route 216, Stormville, NY 12582
9. WILLIAM A. LEE, Former Superintendent of Green Haven C.F.
Current place of Employment: Superintendent at Eastern
C.F. 30 Institution Road - Box 338, Napanoch, NY 12458
10. EDWARD R. BURNETT, Former Deputy Superintendent Security
of Green Haven C.F. Current place of employment unknown.

II. STATEMENT OF CLAIM:

- A. In what institution did the events giving rise to your claim occur? Place of incident is Green Haven C. F., 594 Route 216, Stormville, NY 12582.
- B. Where inside the institution did the events giving rise to your claim occur? The exact location inside GHCF, is the H-Block corridor, in front of H-Block Housing Unit.
- C. What is the date and time the events giving rise to your claim occur? The date of incident is September 14, 2014. The time of incident, approximately 6:20 p.m.
- D. **FACTUAL ALLEGATIONS:** On the above-mentioned date and time, plaintiff locked in H-Block, 4 Company, Cell number 147, on the first floor. The cell plaintiff locked in is the fifth cell from the front door.

When plaintiff's cell opened he and 3 prisoners exited H-Block to proceed to the exercise yard. Plaintiff was when immediately surrounded by several security staff and given loud bositerous orders to place his hands high on the wall (by C.O. Miller), plaintiff immediately complied. The other prisoners were ordered to return back into the Housing Unit (H-Block) and the H-Block door was slammed shut.

Plaintiff was than surrounded by Defendants Sgt. O. Garritt, Sgt. John Doe, Paul D. Miller (to plaintiff's right side), Warren Freeman (to plaintiff's left), Robert J. Cocuzza, Jr. (behind plaintiff), Daniel J. Lavelle and Za'Quawn Griset also in the immediate area.

While plaintiff's hands remained high and flat on the wall, Defendant Paul D. Miller, punched plaintiff in the face (right side). Plaintiff's hands remained high and flat on the wall as he was being told "You better not take your hands off that fucking wall."

Then Defendant Warren Freeman, punched plaintiff in the face (left side). Defendant Sgt. O. Garritt, gave the order to take plaintiff to floor. Defendant Paul D. Miller, then placed his arm around plaintiff's neck (Headlock) and slammed plaintiff down to the floor. Plaintiff was immediately handcuffed.

Plaintiff was then beaten by several of defendants. Plaintiff was kicked, knelt upon and punched several times all over his body. Defendant Warren Freeman grabbed plaintiff's right ankle and began twisting it in a sadistic manner for the purpose of inflicting further pain and injury to plaintiff.

Plaintiff was taken and admitted into the Special Housing Unit (SHU) and was medically examined by Defendant W. Miller, RN. During the medical examination, plaintiff gave a detailed description of what happened to him along with the pains and the injuries, he is having.

During this medical examination plaintiff's face was visibly bruised and swollen, the same with plaintiff's body being visibly bruised. Plaintiff detailed description included telling defendant W. Miller that he is having excruciating pain in his jaw, severe pain in right shoulder, lower back and his right ankle and how these injuries came about (Prison guard abuse).

On September 22, 2014, plaintiff was issued a Tier III Misbehavior Report, reported by Defendant Paul D. Miller on September 14, 2014. The Description of Charges consisted of violating the follow DOCCS Rules: Section 104.11 Violent Conduct; Section 104.13 Creating a Disturbance; Section 106.10 Refusing Direct Order and Section 115.10 Refuse Search or Frisk.

Plaintiff's Tier III Hearing started on September 26, 2014. The Tier III Hearing was conducted by Captain R. Harris. The Hearing ended on October 2, 2014, the Hearing Officer, Captain Harris, found the plaintiff Not Guilty of the following charges: Section 104.11 Violent Conduct; 104.13 Creating a Disturbance; 115.10 Refuse Search or Frisk. Captain Harris found Plaintiff Guilty of the charge 106.10 Refusing Direct Order and imposed a disposition of 9 Days of SHU confinement; 9 Days of Loss of Packages; 9 Days Loss of Commissary and 9 Days Loss of Phones. The start date for these infraction began September 26, 2014 and the release date was October 5, 2014.

On December 18, 2014, Corey Bedard, Acting Director of DOCCS Special Housing/Inmate Disciplinary reversed plaintiff's Guilty Disposition on the charge of 106.10 Refusing Direct Order, additionally it was ordered all matter containing references to this incident be expunged from plaintiff's records.

On October 3, 2014 (after spending 21 days in the Special Housing Unit) plaintiff was released and returned back to the general population (J-Block). On October 6, 2014, plaintiff went to Sick-Call and on October 8, 2014, plaintiff was seen by a Medical Provider (Ms. Welsh). It was at this point when plaintiff became aware that his Medical files did not accurately reflect what had told to the nurse, (defendant W. Miller) on September 14, 2014. Plaintiff's is claiming defendant W. Miller, RN, purposely omitted his detailed description and by doing so, defendant W. Miller, RN failed in his medical professional responsibilities to accurately record plaintiff account on how he suffered these the injuries.

Defendants Williams A. Lee, Superintendent in GHCF (2009 - 2014) and Edward R. Burnett, Deputy Superintendent of Security on September 14, 2014 (whom also employed in GHCF as a Captain worked in GHCF for at least 15 years). Both of these defendants (Lee and Burnett) being well aware of the various inmates complaints filed against defendant Freeman (whom has employed in GHCF for over 10 years). Plaintiff is alleging that these 2 defendants in their Supervisory roles failed to take appropriate measures to deal with this problematic employee. As a direct result of these two defendant's (Lee and Burnett) inaction, defendant Freeman's actions was in essence condoned at the highest level inside GHFC whereas Freeman feels comfortable in continuing to break the law because GHCF Chief Executive Officer and Executive Staff are going to protect him.

Defendant Paul D. Miller, has be named in various complaints involving use of force, etc. Once again the GHFC Administration being familiar with these complaints filed against defendant Miller fell on dead ears. As a direct result of these two defendants (Lee and Burnett) inaction, defendant Miller's actions was in essence condoned at the highest level inside GHFC whereas Miller feels comfortable continuing to break the law because GHFC Chief Executive Officer and Executive Staff, are going to protect him.

Plaintiff herein states: Defendants violated plaintiff's United States Constitutional Rigths to be free from cruel and unusual punishment (Cruel and United Punishment Clause of the Eighth Amendment), causing atypical hardship and deliberate indifferent.

Plaintiff's claim is stating he became an unjust, unprovoked target by the above defendants. Plaintiff was beaten by several prison guards, issued a falsified misbehavior reporter, and placed in the Special Housing Unit (SHU).

As a direct result of these defendants' actions, plaintiff's United State Constitutional Rights under the 8th Amendment which prohibits Cruel and Unusual Punishment was violated by the defendants.

III INJURIES:

Plaintiff injuries consist of the following: 1. Jaw bone problems, migraine headaches, lower back pains, right ankle pains.

IV. EXHAUSTION ADMINISTRATIVE REMEDIES

Under the Prison Litigation Reform Act of 1995, 42 U.S.C. § 1997e(a). Plaintiff exhausted all administrative remedies.

V. RELIEF:


Plaintiff seek to recover in the amount of 1 Million Dollars (1,000,000.00) from each defendant.

VI PREVIOUS LAWSUIT(S)

Plaintiff had not file any other lawsuit dealing with the same facts involved in this civil action. Plaintiff never file any other lawsuit in Federal Court which relates to his condition of confinement.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 9 day of MAY 2016


Nakia Rose
DOCCS Din. 09A0768
Green Haven Correctional Facility
594 Route 216
Stormville, NY 12582

I declare under penalty of perjury that on this 9 day of May 9, 2016, I am delivering this complaint to prison authorities to be mailed to the Pro Se Office of the United States District Court for the Southern District of New York.


Nakia Rose

GREEN HAVEN CORRECTIONAL FACILITY
P.O. BOX 4000
STORMVILLE, NEW YORK 12582-4000
NAME NAKIA ROSE DIN 09A0768

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New York, NY 10007

Att: Pro Se Office

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